

06 CV 3136
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HAUTE DIGGITY DOG, LLC,

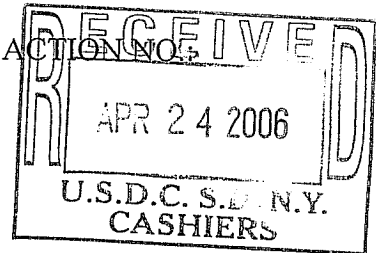
Plaintiff,

v.

LOUIS VUITTON MA, INC.,
J CHOO LIMITED,
CHANEL, INC.,
MARC JACOBS TRADEMARKS LLC,
CHRISTIAN DIOR COUTURE, S.A.,
PARFUMES CHRISTIAN DIOR, S.A.,
VOLKSWAGEN OF AMERICA,
KATE SPADE, and
MOËT HENNESSY USA, INC.,

Defendant.

CIVIL ACTION NO.



COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff Haute Diggity Dog, LLC (“Haute Diggity Dog” or “HDD”), files this Complaint seeking relief against Defendants Louis Vuitton MA, Inc., J Choo Limited, Chanel, Inc., Marc Jacobs Trademarks LLC, Christian Dior Couture, S.A., Parfumes Christian Dior, S.A., Volkswagen of America, Kate Spade, and Moët Hennessy USA, Inc. (“Defendants”) and respectfully states as follows:

JURISDICTION AND VENUE

1. This is an action for declaratory judgment of trademark non-infringement arising under 28 U.S.C. §2201 and 15 U.S.C. §1125 et seq. This Court has jurisdiction of this action

under 28 U.S.C. §§1331, 1338 and 2201(a), and 15 U.S.C. §1125. Venue is proper in this district under 28 U.S.C. §1391.

THE PARTIES

2. Haute Diggity Dog, LLC, is a limited liability corporation organized under the laws of the State of Nevada, with its principal place of business in Las Vegas, Nevada. Plaintiff has been and is doing business in this district selling certain parody products for dogs.

3. Plaintiff is informed and believes and on that basis alleges that each Defendant has conducted and is doing business in this district.

4. Each Defendant has asserted claims against the Plaintiff under the trademark laws and has made specific allegations, including one or more of the following: trademark infringement, false designation of origin, likelihood of confusion, unfair competition, and trademark dilution.

5. Plaintiff markets plush stuffed toys and beds for dogs which are whimsically and in parody named, among others, CHEWY VUITON, JIMMY CHEW, CHEWNEEL #5, BARK JACOBS, DOGIOR, BARKSWAGGIN', KATE SPAYED, and DOG PERIGNONN.

6. Defendant Louis Vuitton has filed suit against Plaintiff in Virginia asserting trademark infringement and has asserted that Plaintiff's use of the mark CHEWY VUITON is likely to confuse and therefore be an infringement of Defendant's LOUIS VUITTON trademarks.

7. Defendant J Choo has alleged that Plaintiff's use of the mark JIMMY CHEW is likely to confuse and therefore be an infringement of Defendant's JIMMY CHOO trademarks.

8. Defendant Chanel has alleged that Plaintiff's use of the mark CHEWNEL #5 is likely to confuse and therefore be an infringement of Defendant's CHANEL #5 trademarks.

9. Defendant Christian Dior has alleged that Plaintiff's use of the mark DOGIOR is likely to confuse and therefore be an infringement of Defendant's DIOR trademarks.

10. Defendant Parfumes Christian Dior has alleged that Plaintiff's use of the mark DOGIOR is likely to confuse and therefore be an infringement of Defendant's DIOR trademarks.

11. Defendant Volkswagen of America has alleged that Plaintiff's use of the mark BARKSWAGGIN' is an infringement of Defendant's VOLKSWAGEN trademarks.

12. Defendant Kate Spade has alleged that Plaintiff's use of the mark KATE SPAYED is an infringement of Defendant's KATE SPADE trademarks.

13. Defendant Moët Hennessey has alleged that Plaintiff's use of the mark DOG PERIGNONN is likely to confuse and therefore be an infringement of Defendant's DOM PERIGNON trademarks.

14. As a result of Defendants' allegations, Plaintiff has a reasonable apprehension of suit for trademark infringement by each Defendant and such threatened action casts a cloud over Plaintiff's business.

COUNT I REQUEST FOR DECLARATORY JUDGMENT

15. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 14 above as if fully set forth herein.

16. An actual justiciable controversy exists between the Plaintiff and each Defendant regarding whether a claim exists for infringement of their respective trademarks under 15 U.S.C. §1125.

17. Plaintiff seeks to have the Court declare the rights, status and legal relationship of the parties under one or more federal statutes and applicable related state law.

18. Plaintiff requests that the Court enter a declaratory judgment in its favor declaring that (a) Haute Diggity Dog does not infringe any valid trademark right of each Defendant; (b) each Defendant does not have any valid trademark rights sufficient to exclude the sale of any Haute Diggity Dog good or service; (c) Plaintiff has not engaged in unfair competition, false designation of origin, or trademark dilution, and (d) each Defendant has not been injured by any conduct of Haute Diggity Dog in connection with its sales of the accused dog products.

RELIEF REQUESTED

WHEREFORE, Haute Diggity Dog prays for the following relief:

A. A declaration that each Defendant's asserted trademarks are unenforceable against Plaintiff's parody products for dogs;

B. A declaration that Plaintiff's accused products do not infringe any U.S. trademarks owned by each Defendant, that Plaintiff has not engaged in unfair competition, that Plaintiff has not diluted any such marks, and that Plaintiff has not engaged in false designation of origin;

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- C. An award of Plaintiff's attorney fees in this action;
- D. An award of interest and costs of suit; and
- E. Such other relief as the Court deems proper and just in the circumstances.

Dated: April 24, 2006

Respectfully submitted,

SCHWEITZER CORNMAN GROSS &
BONDELL LLP

By: 

Michael A. Cornman (MC 7134)

292 Madison Avenue
New York, NY 10017
Telephone: 646 424 0770
Facsimile: 646 424 0880

Robert M. Mason (RM 6960)
MASON & PETRUZZI
402 Carillon Tower West
13601 Preston Road
Dallas, Texas 75240
Telephone: (972) 788-1500
Facsimile: (972) 788-1561